

CHAPTER 213
PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM—
TEMPORARY INCAPACITY

661—404.1(97A) Temporary incapacity defined. Temporary incapacity is defined as a condition from which a member in service becomes incapacitated for duty as a natural and proximate result of an injury, disease, or exposure incurred or aggravated while in the actual performance of duty at some definite time and place.

661—404.2(97A) Application for temporary incapacity status. An application for temporary incapacity status may be filed in accordance with rule 661—401.1(97A). The application must be filed by the member or by a person with legal standing in relation to the member in the event that the member is unable to do so. It shall be accompanied by a copy of the first report of injury, if one is available; workers' compensation medical reports and determinations; and all other workers' compensation documents related to the injury or other medical reports and records as may be available.

An application may be filed at any time; however, it shall not become effective until all of the elements of temporary incapacity have been met. If the incapacity has ended by the time the application is made, then the application for temporary incapacity status shall include a medical release to return to duty.

661—404.3(97A) Processing applications for temporary incapacity status. Applications for temporary incapacity status shall be processed in accordance with rule 661—401.2(97A). Available workers' compensation medical records, as well as other medical reports and records as may be available and acceptable to the board of trustees, shall serve as the basis for medical evaluation to determine the status of the applicant.

661—404.4(97A) Actions by the board. The board of trustees may accept the application as submitted and grant temporary incapacity, may reject the application for temporary incapacity status or may delay action on the application.

The board may at any time direct further medical examination of a member who is in temporary incapacity status, or who has an application pending for temporary incapacity status, by a physician or physicians, or other appropriate licensed health care providers.

661—404.5(97A) Sick leave. When temporary incapacity is granted, the member will no longer be charged sick leave and will have sick leave that has been used to date during the period of incapacity reinstated. No other form of leave utilized prior to a determination by the board will be reinstated. Holidays occurring during a period of temporary incapacity shall be used as holiday time. The department shall pay the difference between the workers' compensation salary and the member's regular salary including any adjustments that occur during the time of temporary incapacity. In the event that a member does not have sufficient sick leave to ensure complete pay until action is taken by the board on the temporary incapacity application, a special board meeting shall be called to consider an application for temporary incapacity as soon as practical.

661—404.6(97A) Recurrences. If a member is incapacitated as a result of a previous work-related injury for which temporary incapacity had been granted and from which the member has been released, then the member must file a new application to be eligible for temporary incapacity status.

661—404.7(97A) Review. The status of each application for temporary incapacity which has been previously approved shall be reviewed at least quarterly by the board of trustees until the member is released from temporary incapacity status, unless the board establishes a different period for review for an individual case. Approval may be either continued or terminated as a result of the review. The board may also direct further medical examination.

If a member currently in temporary incapacity status returns to work, a copy of the member's medical release shall be submitted to the secretary. The board shall review the member's temporary incapacity status as soon as practical after receipt of the medical release.

661—404.8(97A) Discontinuance of temporary incapacity status.

404.8(1) Action by the board that results in the approval of disability benefits shall result in the immediate termination of temporary incapacity status.

404.8(2) Disapproval of an application for disability benefits shall result in an immediate review of the member's temporary incapacity status. If the temporary incapacity status is discontinued based on that review and if the disapproval of disability benefits is reversed on appeal, then the benefits that would have been accrued for temporary incapacity shall be restored.

404.8(3) The commissioner shall file an application for disability retirement when it is medically determined that a member in temporary incapacity status is permanently disabled.

661—404.9(97A) Appeals. Decisions of the board to deny or discontinue temporary incapacity status may be appealed in accordance with the procedures established in 661—Chapter 401.

These rules are intended to implement Iowa Code Supplement section 97A.5, subsection 5, paragraph "b."

[Filed 10/5/04, Notice 8/18/04—published 10/27/04, effective 12/1/04]